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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,852	09/19/2001	Helge Ahrens	Beiersdorf 742-KGB	9878

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EXAMINER

GHALI, ISIS A D

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant's Name

09/955,852

Applicant(s)

AHRENS ET AL.

Examiner

Isis Ghali

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

The receipt is acknowledged of applicants' preliminary amendment, filed 09/19/2002; and declaration fee and priority document, both filed 10/15/2002.

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite,

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failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Regarding claims 1, 2, 5-10, it is not clear if the adhesive layer and the polyurethane layer are the same or they are two separate layers?

Claims 5 and 6 recite the limitation "carrier film" in claim 1. There is insufficient antecedent basis for this limitation in the claim.

Claims 7 and 8 recite the limitation "adhesive layer" in claim 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 5, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,867,748 ('748).

US '748 disclosed a wound dressing comprising central sealing pad that is beveled along all its outer edge in thickness dimension (col.2, lines 29-33). The sealing pad comprises polyurethane (col.3, line 64). The polyurethane is inherently vapor previous. The sealing pad is covered on one side by film made of polyurethane,

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polyethylene, polyester or polyamide, and on the other side by protective cover of siliconized paper (col.3, lines 34-46).

7. Claims 1, 2, 5, 6, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,591,447 ('447).

US '447 disclosed wound dressing comprising backing layer of polyurethane or polyamide; removable release layer of silicon release paper; and in between there is an adhesive layer comprising polyurethane (abstract; col.3, lines 25-50; col.6, lines 8-19). The adhesive layer include central thick portion with peripheral flanges of reduced thickness, and in one embodiment the central portion shows a large curve leading to the flanges, i.e. beveled (abstract; Fig. 8; col.3, lines 1-2). The thickness of the backing layer ranges from 50-200 micrometer (col.6, lines 5-8).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over any of US '748 or US '447.

The teachings of the references are discussed above. However, the references do not teach the adhesive layer between the carrier film and the matrix, the exact thickness of the flanges as instantly claimed, or the active agents in the matrix.

It is well known in the art to have adhesive layer in between the backing and the matrix, and it is also known to include active agents in the matrix of the wound dressing. It is within the skill in the art to select the dimensions of the wound dressing according to the site of application and its particular need.

Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide the wound dressing of any of US '748 or US '447 that bevels towards the edge, and to include active ingredient in the matrix layer, motivated by the logic of the art that active agents will enhance the wound healing, reduces the risk of infection and alleviate pain, with reasonable expectation of success of the delivered dressing in treating wound effectively.

11. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over any of US '748 or US '447 in view of US 4,855,335 ('335).

The teachings of US '748 and US '447 are discussed above. However, the references do not teach the adhesive layer between the carrier film and the matrix, the exact thickness of the flanges as instantly claimed, or the active agents in the matrix.

It is well known in the art to have adhesive layer in between the backing and the matrix. It is within the skill in the art to select the dimensions of the wound dressing according to the site of application and its particular need.

US '335 teaches a wound dressing comprising pharmacologically active agents (col.6, lines 24-26).

Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide wound dressing of any of US '748 or US '447 that bevels towards the edge, and to include active ingredient in the matrix layer, motivated by the teaching of US '335 that pharmacologically active agents can be included in the adhesive composition, with reasonable expectation of success of the delivered dressing in treating wound effectively.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isis Ghali whose telephone number is (703) 305-4048. The examiner can normally be reached on Monday through Thursday from 7:00 AM to 5:30 PM, Eastern Time.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page, can be reached on (703) 308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Isis Ghali
Examiner
Art Unit 1615


CARLOS AZPURU
PRIMARY EXAMINER
GROUP 1500